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Arizona Corporation Commission

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AZ CORP COMMISSION  
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## BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION  
OF SALT RIVER PROJECT  
AGRICULTURAL IMPROVEMENT AND  
POWER DISTRICT, IN CONFORMANCE  
WITH THE REQUIREMENTS OF ARIZONA  
REVISED STATUTES, SECTION 40-360 et  
seq., FOR A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY  
AUTHORIZING THE EXPANSION OF THE  
COOLIDGE GENERATING STATION, ALL  
WITHIN THE CITY OF COOLIDGE, PINAL  
COUNTY, ARIZONA.

Docket No. L-00000B-21-0393-00197

Case No. 197

Decision No. 78545

**RANDOLPH INTERVENORS  
RESPONSE TO SRP NOTICE OF  
APPEAL**

Dianne Post, Attorney for Randolph Intervenors, respectfully submits the following  
Response to the Notice of Appeal filed by SRP on July 8, 2022.

## MEMORANDUM OF POINTS AND AUTHORITIES

As SRP announced in their Notice of Appeal, they filed a direct appeal and a special  
action petition regarding this matter. In the special action, they made the argument that the  
Corporation Commission has no right to disagree with decisions made by the board of SRP.  
That would render the entire regulatory process nugatory. Any corporation could simply say their  
board made this decision and the Corporation Commission has no power to say otherwise. This  
is not the Rule of Law – it's the rule by corporation.

1 In the direct appeal, they went even further arguing that they don't need a CEC from the  
2 Corporation Commission at all. Thumbing their nose at the entire constitutional and statutory  
3 regime set up in Arizona to prevent corporate overreach, they reached for the moon.

4 SRP also makes it clear what their goal is on page 6 of the Supreme Court petition – to  
5 ensure control of current and future ACC decisions. They say that they have future projects  
6 coming down the line and they want to ensure that they have favorable decisions on them.

7 I refer you back to my May 23 memo in which I cover many of these same points though  
8 not so blatantly admitted by SRP at the time. I will not repeat those arguments. This new attack–  
9 filing two lawsuits so that the cost of defending them will force the Commission to capitulate to  
10 their demands – is the kind of arrogant and abusive pressure that the creation of the Commission  
11 was designed to eliminate.  
12

13 The Arizona Supreme Court in the recent case of *Johnson Utilities L.L.C. v. Arizona*  
14 *Corporation Commission*, 249 Ariz. 215, 468 P.2d 1176 (2020) outlined in detail the need and  
15 reasons for the creation of the Corporation Commission. Starting at paragraph 13, the court  
16 states, “One of the primary concerns of the delegates attending the Arizona Constitutional  
17 Convention of 1910 was to protect the public from corporate abuses that had occurred in Arizona  
18 during the late nineteenth and early twentieth centuries.” The court goes on to talk about a  
19 variety of swindles in mining, telephone, wireless and industrial corporations. The delegates to  
20 the constitutional convention repeatedly expressed their desire to protect the public from  
21 corporate abuse and overreaching.  
22

23 In paragraph 14 they talk about why they did not give this power to the legislature. The  
24 founders wanted an elected commission with broad powers. While the progressives wanted  
25 regulation of all corporations, a political compromise resulted in a more limited remit (§17). In

1 paragraph 15 they talk about the legislative history of regulating the railroads and the great  
2 dissatisfaction with the legislature that lent weight to the argument to put the power in an  
3 independent commission.

4 The arguments SRP makes in the new lawsuits and have made in this venue dismiss the  
5 concerns of the Randolph community. SRP acts as if throwing money at the residents will  
6 resolve the problem. It won't. SRPs arguments also negate the comments of thousands of  
7 Arizonans from across the state in all walks of life who have voiced opposition to this project. To  
8 capitulate to either of SRPs arguments, that their board cannot be questioned and that they don't  
9 need a permit anyhow, would be irresponsible leading to a complete lack of accountability for  
10 entities that the Corporation Commission was designed to prevent.

12 The Corporation Commission Decision 78545 on April 28, 2022 is consistent with the  
13 applicable law and has more than adequate evidence in the record to support its findings and  
14 conclusions. There is no basis for re-hearing and reconsideration. SRPs case is no different today  
15 than it was from the beginning. They are simply flexing their corporate muscle against the  
16 Corporation Commission, the residents of Randolph, and the people of Arizona.

18 RESPECTFULLY SUBMITTED THIS 11<sup>th</sup> day of July 2022.

19  
20 

21 By \_\_\_\_\_  
22 Dianne Post (006141)

23  
24 ORIGINAL and 13 copies of the foregoing  
25 filed this 11th day of July 2022 with:

Docket Control  
Arizona Corporation Commission

RANDOLPH INTERVENORSRESPONSE TO SRP NOTICE OF APPEAL -

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3 COPIES of the foregoing e-mailed on this  
4 11th day of July 2022, to:

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